

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



August 6, 1996

Reason for this Transmittal

- ☐ State Law Change
- ☐ Federal Law Change
- ☒ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

ALL COUNTY LETTER NO. 96-39

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY GAIN COORDINATORS
ALL COUNTY AFDC COORDINATORS

SUBJECT: MURADYAN V. ANDERSON LAWSUIT

REFERENCES: ALL-COUNTY LETTER (ACL) NOS. 90-121, 95-77, and
96-28

The purpose of this letter is to provide guidance to County Welfare Departments (CWDs) in implementing the Muradyan v. Anderson Stipulation of Settlement and Consent Decree. A copy of the Consent Decree is enclosed with this letter.

BACKGROUND INFORMATION

On December 16, 1992, the Muradyan v. Anderson lawsuit was filed in Sacramento County Superior Court. The lawsuit challenged the policy of the California Department of Social Services (CDSS) that required Aid to Families with Dependent Children (AFDC) applicants/recipients to attend Greater Avenues for Independence (GAIN) Program orientation and appraisal, even though they met the criteria for exemption from GAIN due to remoteness.

The remoteness exemption is defined in Manual of Policies and Procedures (MPP) Section 42-794, which states, "An individual is exempt when he/she is residing in a location which is so remote from a GAIN Program activity that the individual's effective participation in GAIN is precluded. An individual shall be considered remote if a round trip of more than two hours by reasonably available public or private transportation, exclusive of the time necessary to transport children to and from a child care facility, would be required for a normal work or training day..."

The CDSS previously interpreted MPP Section 42-794 to mean that the two-hour rule did not apply to GAIN orientation and appraisal, since orientation and appraisal were not considered to be "normal work and training day" activities, but were scheduled only on a one-time basis.

Emergency regulations clarifying that the remoteness exemption applies to GAIN orientation and appraisal were transmitted to the CWDs via ACL 95-77, dated December 13, 1995. These regulations require that CWDs determine whether an AFDC applicant/recipient is exempt due to remoteness (or any other reason) prior to sending the individual a GAIN Registration form (GAIN 24). The regulations also require that CWDs document their exemption determinations in writing and provide a copy to the applicant/recipient. These regulations are unchanged by the Muradyan Consent Decree.

MURADYAN IMPLEMENTATION

The Muradyan Consent Decree requires that CDSS combine the GAIN Exemption Request form (GAIN 52) and GAIN Program Notice form (GAIN 53). The new, combined form includes GAIN program information on the front and exemption request information on the back. The new form retains the GAIN 53 designation and is now titled, "GAIN Program Notice and Exemption Request". The GAIN 53 (6/96) and GAIN 52 (6/96) are now obsolete.

The Consent Decree requires that CWDs provide the GAIN 53 (7/96) form to:

1. AFDC applicants at the time the individuals apply for AFDC,
2. AFDC recipients at the time of GAIN orientation and appraisal, and
3. AFDC applicants/recipients upon request.

Counties should begin distribution of the new GAIN 53 form, as noted above, no later than 60 days after the date of this ACL.

The Muradyan Consent Decree does not include provisions for retroactive relief, such as sending informing notices, processing claims, or paying retroactive benefits to class members.

COUNTY INSTRUCTIONS TO THEIR STAFF

The Muradyan Consent Decree requires that CDSS transmit to plaintiffs copies of the counties' instructions to their staff regarding the definition and application of the remoteness exemption.

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Counties should review their instructions to staff regarding the remoteness exemption for compliance with the Muradyan Consent Decree and ACL 95-77. Following any necessary revisions, counties shall send a copy of their staff instructions to their GAIN Operations Analyst by September 1, 1996. If any subsequent revisions to these instructions are made by a county before June 11, 1997, the county shall send a copy of the revised instructions to their GAIN Operations Analyst for review and approval.

IMPACT OF BENO GRANT REDUCTION PROCESS ON REQUIREMENTS OF THE MURADYAN CONSENT DECREE AND ACL 95-77

ACL 96-28, dated May 23, 1996, provided counties with updated implementation instructions and emergency regulations for exempting certain Assistance Units (AUs) from grant reductions, as required under the Beno v. Shalala lawsuit. Counties that complete the processes for determining whether an AU is exempt from grant reductions, as required by ACL 96-28, are not relieved from meeting the requirements of the MURADYAN Consent Decree nor ACL 95-77; they must also complete the processes for determining whether the individual(s) are exempt from GAIN registration, as specified in this ACL and ACL 95-77. The two exemption processes are separate and distinct, even when a GAIN exemption is used as the basis for exempting an AU from grant reductions.

AVAILABILITY OF FORMS

A reproducible copy of the GAIN 53 (7/96) is enclosed with this letter. CWDs may obtain camera-ready copies of the English and/or Spanish versions of the GAIN 53 (7/96) by calling or writing:

CDSS Forms Management Unit
744 P Street, MS 7-182
Sacramento, CA 95814
(916) 657-1907

CWDs may obtain camera-ready copies of the GAIN 53 (7/96) translated into the standard Asian languages by calling or writing:

CDSS Language Service Bureau
744 P Street, MS 9-024
Sacramento, CA 95814
(916) 654-1282

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If you have any questions regarding the instructions or materials contained in this ACL, please contact your GAIN Operations analyst at (916) 657-3403.

Bruce Wagstaff

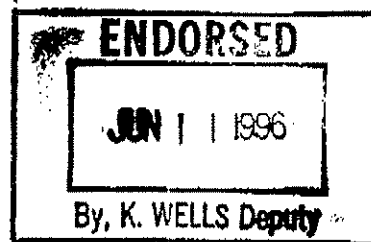
BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Enclosures

c: CWDA

GRACE A. GALLIGHER, S.B.N. 106687
Coalition of California Welfare
Rights Organizations, Inc.
1901 Alhambra Blvd., 2nd Floor
Sacramento, CA 95814
(916) 736-0616

Attorney for plaintiffs



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

GARIB MURADYAN, et.al.,

Plaintiffs /Petitioners,

v.

ELOISE ANDERSON, Director, California
Department of Social Services, et. al.,

Defendants/Respondents.

CASE NO 372922

STIPULATION OF
SETTLEMENT AND
CONSENT DECREE

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. In this class action, plaintiffs seek relief arising from sanctions imposed based on defendants' alleged policy of requiring applicants for and recipients of Aid to Families with Dependent Children ("AFDC") to attend orientation and/or appraisal activities for the Greater Avenues of Independence ("GAIN") program, even though the individual claimed that he or she was remote from these GAIN activities.

2. The parties wish to settle this litigation by entering into this stipulated agreement which includes prospective relief requiring the county welfare departments to determine whether the remoteness exemption applies to the AFDC

1 applicant or recipient before the AFDC applicant or recipient is sent a GAIN
2 registration form. The Department of Social Services ("Department") and county
3 welfare departments will apply the remoteness exemption to all GAIN activities,
4 including orientation and appraisal. In light of this prospective relief, and because
5 of the expense and time which would be required by the parties to identify any
6 individual class members, retroactive relief is waived.
7

8 3. For purposes of this consent decree, the parties agree that the class is
9 defined as those GAIN participants or registrants who were sanctioned for their
10 failure to attend the GAIN orientation or appraisal activities, even though they
11 were remote from these GAIN activities.
12

13 4. This consent decree shall be binding upon all class members and the
14 Director of the Department, and her employees, agents, successors in interest, and all
15 persons acting by, through, or under them, including the counties, and their
16 employees, agents, and all persons acting by, through, or under them.
17

18 5. In December 1995, the Department implemented regulations and
19 procedures requiring the counties to determine whether an AFDC
20 applicant/recipient is exempt due to remoteness prior to sending the individual a
21 GAIN Registration form (GAIN 24). At the time an individual applies for AFDC,
22 counties are required to provide the GAIN Program Notice (GAIN 53). The GAIN
23 Program Notice informs the AFDC applicant to request a GAIN Exemption Request
24 form (GAIN 52) in order to request a GAIN exemption. Counties are required to
25 complete a GAIN Exemption Determination form (GAIN 63) and send a copy to the
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1 AFDC applicant prior to sending the GAIN Registration form (GAIN 24).
2

3 6. Pursuant to this consent decree, the Department shall develop and
4 implement a revised, combined GAIN Exemption Request (GAIN 52) and GAIN
5 Program Notice (GAIN 53) form. This form shall be provided to: (1) AFDC
6 applicants at the time the individual applies for AFDC; (2) AFDC recipients at the
7 time of the GAIN orientation and appraisal; and (3) AFDC applicants/recipients
8 upon request. The Department shall develop and send an All-County Letter
9 informing the counties of this revised, combined form.
10

11 7. The Department has adopted and promulgated regulations necessary to
12 implement the Stipulation for Agreement and Consent Decree on an emergency
13 basis subject to the requirements and approval of the Office of Administrative Law.

14 8. The Department shall transmit to plaintiffs' counsel the All-County Letter
15 and revised, combined GAIN Exemption Request (GAIN 52) and GAIN Program
16 Notice (GAIN 53) form as soon as administratively possible. Plaintiffs' counsel shall
17 return comments on the documents within ten working days from receipt of such
18 documents.
19

20 9. The Department shall provide plaintiffs' counsel with copies of the
21 correspondence between the Department and the county welfare departments and
22 copies of the county welfare departments' instructions to their staff regarding the
23 definition and application of the remoteness exemption for a period of one year
24 after the Stipulation and Consent Decree is signed by the court.
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26 10. All claims raised by plaintiffs in their First Amended Petition for Writ of
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1 Mandate, Petition for Writ of Administrative Mandamus, Request for Taxpayers'
2 Injunctive Relief, and Retroactive Benefits, which are not specifically addressed in
3 the Stipulation for Agreement and Consent Decree, are abandoned.
4

5 11. Within five days from the date that the court order approving this
6 stipulation and consent decree becomes final, plaintiffs will dismiss this action with
7 prejudice.
8

9 12. Attorney's fees and costs, if any, sought by plaintiffs will be the subject of
10 separate negotiations, and proceedings, if necessary. Dismissal of this action will not
11 prejudice any claim for attorney's fees and costs.
12

13 13. The Department does not admit to any wrongdoing by entering into this
14 Stipulation for Agreement and Consent Decree.
15

16 14. Nothing in this Stipulation and Consent Decree shall prohibit defendants
17 from implementing any policies or practices relating to the GAIN program required
18 by changes in state or federal law. In the event that changes in state or federal law
19 require elimination of the remoteness exemption, then the terms of this Stipulation
20 and Consent Decree will automatically become null and void. In the event that
21 changes in state or federal law require substantial modification of the remoteness
22 exemption, or the exemption determination process, then the parties agree to meet
23 and confer to determine whether the terms of this Stipulation and Consent Decree
24 should be modified.
25

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27 ////

1 15. The Court shall retain jurisdiction for a period of one year from the date
2 the Stipulation and Consent Decree is signed by the court.
3

4 IT IS SO STIPULATED.

5 DATED: May 17, 1996
6

7 Grace A. Galligher
8 GRACE A. GALLIGHER
9 Attorney for Plaintiffs
10 Coalition of California
Welfare Rights Organizations

11 DATED: May 22, 1996
12

13 DANIEL E. LUNGREN, Attorney General
14 of the State of California
Dennis Eckhart, Supervising Deputy
Attorney General

15 Andrea Lynn Hoch
16 ANDREA LYNN HOCH
17 Deputy Attorney General
Attorney for Defendants

18 IT IS SO ORDERED.
19

20 DATED: 6/11/96
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22
23 CECILY BOND
24 JUDGE OF THE SUPERIOR COURT
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GAIN PROGRAM NOTICE AND EXEMPTION REQUEST

WHAT GAIN MEANS TO YOU

- GAIN stands for Greater Avenues for Independence. GAIN can teach, train and counsel you to help you find a job.
- Some of the things GAIN can do for you are:
 - Show you how to look for a job.
 - Help you with educational or vocational/on-the-job training and teach you basic reading, math and English.
 - Help you get work experience.
- GAIN will help you arrange and pay for supportive services like child care, transportation, and other costs such as special tools or clothing you need to take a job. You may get advance payments if you need them. You won't have to use your cash aid to pay for supportive services.
- GAIN will tell you about the available kinds of child care and where to find child care.

WHEN YOU MUST BE IN GAIN

- You must be in GAIN if you apply for or get Aid to Families with Dependent Children (AFDC) and you are not excused (exempt) from participating.
- You don't have to be in GAIN if you are exempt. If you are eligible for the Cal-Learn Program, or if you got a high school diploma or its equivalent while you were in the Cal-Learn Program, some of these exemptions may not apply to you. For more information, contact your eligibility worker or Cal-Learn case manager. You are exempt if you are:
 - Under 16 years old.
 - 16, 17 or 18 years old and in high school or adult school full time unless you go to school as part of your GAIN Program.
 - Ill or have any injury that would keep you from working, or are recovering from having a baby.
 - Living so far away from a GAIN activity that you can't take part. This means it takes more than two hours total travel time from your home to go to and from any GAIN activity, including orientation and appraisal. If you take public transportation, such as a bus, your travel time includes the time it takes you to walk to the bus stop, the time to transfer from one bus to another, and the time to walk from the bus stop to the GAIN activity location. Your travel time does not include the time you need to take children to and from child care. Your GAIN orientation/appraisal will be held at: _____
 - Staying home on a regular basis to take care of someone in the household who can't take care of him/herself, and nobody else in the home is available to care for the person.
 - A parent or caretaker of a child under three years old. This exemption is available only once during a continuous period of eligibility. BUT if you are age 19 and do not have a high school diploma or General Educational Development Certificate (GED), you must be in GAIN no matter how old your child is unless you have another reason to be exempt.

- Working at least 30 hours per week on a job that should last at least 30 days and pays at least the minimum wage.
 - Physically or mentally unable to work for at least 30 calendar days.
 - 60 years old or older.
 - Pregnant and the baby is due within six months.
 - A VISTA volunteer.
 - If you are a person who has no legal right to work in the United States, you will be excused from GAIN.
- If you do not meet any of the listed reasons for being exempt from GAIN, you may be required to go to GAIN. If you are required to go, you will get a notice that tells you when your first appointment will be.
- If you believe that you have a good reason for not participating, you should complete the back of this form and send it to your worker at the following address:

You will be told by the county in writing whether you can be exempt from GAIN or are required to participate.

- Even if you don't have to be in GAIN, you can ask to participate and you will be told if you can.

IF YOU DO NOT DO WHAT GAIN REQUIRES

- If you are required to be in GAIN:
 - You will have a chance to say why you did not do what you were required to do.
 - If you do not have a good reason, and you will not do what GAIN requires to fix the problem, your cash aid will be lowered.
- If you are not required to be in GAIN, but you asked to be in GAIN (volunteer):
 - You will have a chance to say why you did not do what was asked.
 - If you do not have a good reason and you are not willing to do what GAIN requires to fix the problem, your cash aid will not be lowered, but you may not be allowed back in GAIN for a period of time.

When you get a job and go off aid, the county may be able to help you with child care (Transitional Child Care) for up to 12 months and you may also be able to get Transitional Medi-Cal for 12 months.

You have the right to ask for services like child care, transportation, or other service provided by the GAIN Program. You may ask your worker by phone or in person, or you may ask in writing.

You have the right to ask for a state hearing if you disagree with any of the decisions made by the county about participating in GAIN.

GAIN EXEMPTION REQUEST

PLEASE PRINT

YOUR NAME:

COUNTY USE ONLY

ADDRESS:

STREET

COUNTY

CITY

ZIP

CASE NAME

PHONE NUMBER ()

CASE NO.

OTHER ID NO.

QUESTIONS? ASK YOUR WORKER.

WORKER NAME

If you have been told that you may be required to be in GAIN or you are already in GAIN, you may request to be exempt from GAIN because of one of the reasons listed below. If you are eligible for the Cal-Learn Program, or if you got a high school degree or its equivalent while you were in the Cal-Learn Program, some of these exemptions may not apply to you. For more information, contact your eligibility worker or Cal-Learn case manager. Please also send any information that will help the county decide if you should be exempt from GAIN.

If you answer "Yes" to any of these questions, you may be exempt from GAIN. Please answer all of the questions. This form cannot be completed by county. Please be sure to sign and date the bottom of this form.

YES NO

- ☐ ☐ 1. Are you under 16 years old?
- ☐ ☐ 2. Are you 16, 17 or 18 years old and in high school or adult school? (Does not apply if you are in high school or adult school as a GAIN assignment.)
- ☐ ☐ 3. Are you ill or do you have an injury that would keep you from going to work or training or are you recovering from having a baby? Please describe your illness/injury and how long you think this will keep you from participating and provide any medical proof you have. _____
- ☐ ☐ 4. Are you living so far away from a GAIN activity that you can't take part? This means it takes more than two hours total travel time from your home to go to and from any GAIN activity, including orientation and appraisal. If you take public transportation, such as a bus, your travel time includes the time it takes you to walk to the bus stop, the time to transfer from one bus to another, and the time to walk from the bus stop to the GAIN activity. Your travel time does not include the time you need to take children to and from child care. Please mark how you would go to your GAIN activity:
☐ Car/Truck ☐ Bus ☐ Other: _____
- ☐ ☐ 5. Are you staying home on a regular basis to take care of someone in the household who can't take care of him/herself, and nobody else in the home is available to care for the person?
- ☐ ☐ 6. Are you the parent or caretaker of a child under three years old and are you personally responsible for providing care for the child? This may not apply if you have been excused before for having a child under three. (Does not apply if you are age 19 and do not have a high school diploma or General Educational Development (GED) Certificate.)
- ☐ ☐ 7. Are you working at least 30 hours per week on a job that should last at least 30 days and pays at least the minimum wage? The minimum wage requirement does not apply for the first six months if you are self-employed or paid on commission.
- ☐ ☐ 8. Are you physically or mentally unable to work for at least 30 calendar days? Please describe and provide any medical proof you have. _____
- ☐ ☐ 9. Are you 60 years old or older?
- ☐ ☐ 10. Are you pregnant and your baby is due within six months?
- ☐ ☐ 11. Are you a VISTA volunteer?

- You will be informed whether or not you are exempt from GAIN and the reason why.
- You may be asked to give the county proof of your reason.
- If you do not agree with the county, you may ask for a State Hearing.

YOUR SIGNATURE

DATE